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CONGRESSIONAL TESTIMONY

The Federal Land Freedom Act: Empowering States to Regulate Energy Will Yield Better Economic and Environmental Results

Subcommittee on Energy and Mineral Resources

Committee on Natural Resources

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My name is Nick Loris. I am the Herbert & Joyce Morgan Research Fellow at The Heritage Foundation. The views I express in this testimony are my own, and should not be construed as representing any official position of The Heritage Foundation.

I want to thank the Members of the Committee on Natural Resources' Subcommittee on Energy and Mineral Resources for this opportunity to discuss the Federal Land Freedom Act.

The United States remains the leading producer in petroleum and natural gas hydrocarbons, which has produced astounding economic benefits and put money back into the wallets of American families.[1] The story is made more amazing by the fact that federal energy policy actively hindered this energy renaissance as it was taking place. Centuries' worth of oil, natural gas, and coal resources lie beneath private property as well as under lands owned by state governments. While federally owned lands are also full of energy potential, a bureaucratic regulatory regime has mismanaged land use for decades. The tremendous economic benefits of open energy markets and the proven track record of the individual states' regulatory structures dictate a re-examination of the way the federal government manages resources on federal lands.

The Federal Lands Freedom Act gives states the authority to administer leasing, permitting, and regulatory programs for development of all energy resources on federal lands. States are already well positioned to help make a transition to better management of these resources. While Congress should pursue opportunities to reduce the size of the federal estate through privatization and transferring land to states and counties, the Federal Lands Freedom Act is a significant step toward better management of America's lands and natural resources.

Key points of the testimony include:

- The sheer size and diversity of the federal estate and its resources are too much for distant federal bureaucracies and an overextended federal budget to manage effectively. The government's ill-suited management of federal land fails to fully take into account competing local interests through cumbersome federal and congressional channels.

- Allowing states to regulate the energy resources on federal land means more efficient and accountable management. States share the cost of the maintenance of federal land and have regulatory structures to manage federal land within their boundaries.

- The United States has an abundance of natural resources. Lifting restrictions on energy production that are devoid of any meaningful environmental benefit will add 700,000 jobs and $3.7 trillion in gross domestic product through 2035. Electricity expenditures for households will decline by up to 10.19 percent per year. For a family of four, this means an additional $40,000 of income by 2035.

[1]U.S. Energy Information Administration, "United States Remains Largest Producer of Petroleum and Natural Gas Hydrocarbons," May 23, 2016, http://www.eia.gov/todayinenergy/detail.php?id=26352 (accessed November 10, 2016).

The Federal Land Freedom Act

The Federal Land Freedom Act would allow states to develop energy resources on federal land that is not Indian land, part of the National Park System, the National Wildlife Refuge System, or a congressionally designated area. The legislation would allow states to develop programs that satisfy all applicable federal laws required to produce energy on federal land. Therefore, states would have complete control of their energy programs. Further, states would submit a declaration of their program to the Departments of Agriculture, Energy, and Interior, and the program would not be subject to judicial review.

This would be sufficient in lieu of redundant federal requirements, such as the National Environmental Policy Act. While very few benefit from stagnant production on federal land, many would benefit from the new management that the Federal Land Freedom Act recommends.

Inefficient Federal Management Hurts the Economy and Environment

The federal estate is massive, consisting of some 635 million to 640 million acres and hundreds of millions of subsurface mineral rights below the surface and offshore. According to the Department of Interior's Bureau of Land Management (BLM), "These surface lands are located primarily in the West, but the bureau has a national presence with responsibilities for some 700 million acres of sub-surface mineral estate underlying both Federal and non-Federal lands."[2]

The effective footprint is perhaps even larger as limitations on federal lands often impact the use of adjacent state and private lands, and as government agencies lock up lands through informal designations and study areas. Federal ownership of land results in a one-size-fits-all approach to land management. It also disincentivizes production on non-federal lands located adjacent to or interspersed with federal lands: Production on federal lands is much more difficult, so drilling may make economic sense only if a company has access to both the federal land and the non-federal land. At the very least, the proximity of federal lands makes the non-federal lands less attractive.

America's largest land holder, the Department of the Interior, has a maintenance backlog of $13.5 billion to $20 billion for the land it already owns—a deficit leading to environmental degradation, soil erosion, gross amounts of littering, and land mismanagement.[3] The sheer size and diversity of the federal estate and the resources both above and below ground are too much for distant federal bureaucracies and an overextended federal budget to manage effectively. Energy production on federal land, or the lack thereof, and the painstakingly long and duplicative

[2]U.S. Department of Interior Bureau of Land Management, "Mineral and Surface Acreage Managed by the BLM," https://www.blm.gov/wo/st/en/info/About_BLM/subsurface.print.html (accessed November 10, 2016).
[3]U.S. Government Accountability Office, "Department of the Interior: Major Management Challenges," March 1, 2011, http://www.gao.gov/assets/130/125531.pdf (accessed November 10, 2016).

regulatory process is an illustrative example. For instance, the BLM announced in 2011 that it was nearing completion of a two-year backlog of oil and gas leases in Wyoming, tying up more than $50 million in lease sales.[4] In 1988, the BLM, which oversees 248 million acres of federal land and 700 million acres of underground mineral resources, leased 12.2 million acres; only one-tenth of that was made available in 2014.[5]

Conversely, paperwork and regulatory hoops seem to have increased. The BLM estimates that it took an average of 227 days simply to complete a drill application—just one step in the approval process to harvest oil and gas resources on federal lands. This is compared to 154 days in 2005.[6] It should hardly be assumed that the time spent on arduous paperwork improves environmental protection.

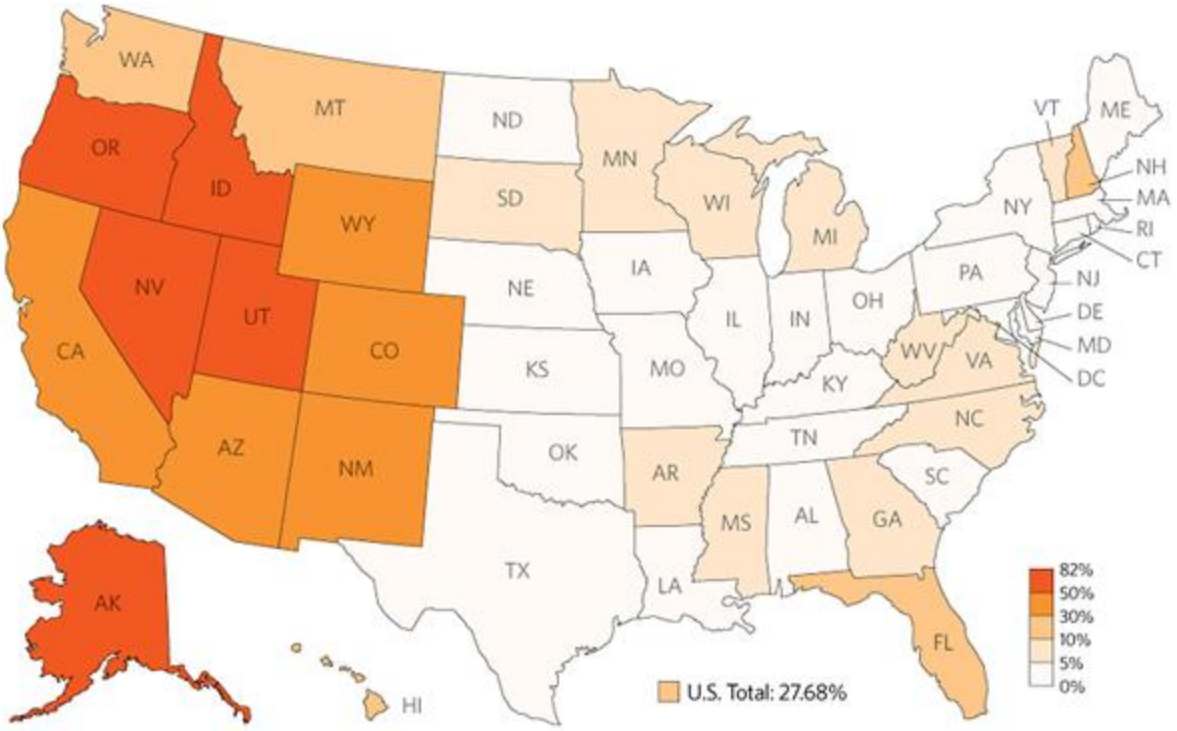
[4]Mead Gruver, "BLM: Oil-Gas Lease Backlog in Wyo. Almost Cleared," *Ventura County Star*, March 31, 2011, http://www.vcstar.com/business/blm-oil-gas-lease-backlog-in-wyo-almost-cleared (accessed November 10, 2016).

[5]Bureau of Land Management, "Number of Acres Leased During the Fiscal Year," data series, October 29, 2014, http://www.blm.gov/style/medialib/blm/wo/MINERALS__REALTY__AND_RESOURCE_PROTECTION_/energy/oil___gas_statistics/data_sets.Par.80157.File.dat/numberofacresleasedeachyear.pdf(accessed November 10, 2016).

[6]Bureau of Land Management, "Average Application for Permit to Drill (APD) Approval Timeframes: FY2005–FY2014," January 6, 2015, http://www.blm.gov/wo/st/en/prog/energy/oil_and_gas/statistics/apd_chart.html (accessed January 14, 2015). Even these numbers are questionable according to a Freedom of Information Act (FOIA) request by Norton Rose Fulbright Global Legal Practice, and average days heavily depend on the related field office. For example, according to the FOIAed BLM data, the average number of days to approve a permit to drill at the Moab, UT, office was 579 days in fiscal year 2011. Norton Rose Fulbright, "Western Lands and Energy Newsletter," June 26, 2013, http://www.nortonrosefulbright.com/knowledge/publications/100086/western-lands-and-energy-newsletter (accessed November 10, 2016).

MAP 1

Federal Land Ownership in 2010



PERCENTAGE OF LAND OWNED BY FEDERAL GOVERNMENT IN EACH STATE

STATE		RANK	STATE		RANK	STATE		RANK
Alabama	2.67%	36	Kentucky	4.25%	31	North Dakota	3.90%	32
Alaska	61.79%	3	Louisiana	4.61%	30	Ohio	1.14%	43
Arizona	42.29%	8	Maine	1.06%	46	Oklahoma	1.60%	41
Arkansas	9.41%	18	Maryland	3.10%	35	Oregon	53.03%	5
California	47.70%	7	Massachusetts	1.62%	40	Pennsylvania	2.14%	38
Colorado	36.23%	9	Michigan	9.97%	17	Rhode Island	0.78%	47
Connecticut	0.27%	51	Minnesota	6.78%	23	South Carolina	4.64%	29
Delaware	2.26%	37	Mississippi	5.04%	27	South Dakota	5.41%	24
District of Columbia	21.64%	13	Missouri	3.79%	33	Tennessee	4.77%	28
Florida	13.07%	16	Montana	28.86%	11	Texas	1.77%	39
Georgia	5.25%	26	Nebraska	1.12%	45	Utah	66.48%	2
Hawaii	20.31%	14	Nevada	81.07%	1	Vermont	7.65%	21
Idaho	61.65%	4	New Jersey	3.67%	34	Virginia	9.25%	19
Illinois	1.14%	44	New Mexico	34.72%	10	Washington	28.51%	12
Indiana	1.47%	42	New York	0.69%	48	West Virginia	7.34%	22
Iowa	0.34%	50	New Hampshire	13.48%	15	Wisconsin	5.33%	25
Kansas	0.57%	49	North Carolina	7.73%	20	Wyoming	48.19%	6

Source: Ross W. Gort, Carol Hardy Vincent, Laura A. Hanson, and Marc R. Rosenblum, "Federal Land Ownership: Overview and Data," Congressional Research Service, February 8, 2012, http://fas.org/sgp/crs/misc/R42346.pdf (accessed January 16, 2015).

Multi-Use, Federal Micromanagement of Local Choices, and Federal Inflexibility

Federal ownership and control results in a static approach to very dynamic energy markets. A recent oil and natural gas discovery in Colorado illustrates the problems and inflexibility due to federal management.

The U.S. Geological Survey (USGS) discovered this past June that Colorado has 40 times more technically recoverable natural gas resources than previously estimated. The discovery makes Colorado's Mancos Shale in the Piceance Basin the second-largest known shale reserve in the country (after Pennsylvania), assessed by the USGS with over 66 trillion cubic feet of gas, 74 million barrels of shale oil, and 45 million barrels of natural gas liquids.[7] Prior to this most recent discovery, the USGS estimated that the area held only 1.6 trillion cubic feet of technically recoverable natural gas and provided no estimates for oil.[8] Yet these vast resources are not reflected in recent federal land-management plans for the region, which could be in effect for over a decade.

Though the economic potential for Colorado's natural resources is great, federal bureaucracy stifles development by drastically curtailing where and how companies can access oil and gas resources in the Colorado Mancos Shale region. Much of the Mancos Shale falls under lands managed by the Forest Service (FS, under the Department of Agriculture), which collaborates with the Bureau of Land Management (BLM, under the Department of the Interior) to manage oil and gas resources. The Forest Service defines the lands available and the conditions for oil and gas development (among other uses) in management plans. The BLM then conducts and administers leases. Such plans generally govern resource management between 15 years and 20 years.

In December 2015, the Forest Service finalized its resource management plan for new leases in the White River National Forest, one of several in the Mancos Shale region. The plan significantly restricts the land that is available for resource development. Of the 2.3 million acres, the Forest Service only makes 194,100 acres accessible for oil and gas extraction.[9] This is half the acreage that was available under the last plan finalized in 1993, and just over 8 percent of the total available acreage. Based on this plan, the BLM published a final environmental impact statement in August 2016, proposing to cancel 25 of the 65 already existing leases on that land; the remaining leases will be modified to meet the Forest Service's

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[7]Technically recoverable refers to resources accessible with today's technology. U.S. Geological Survey, "Assessment of Continuous (Unconventional) Oil and Gas Resources in the Late Cretaceous Mancos Shale of the Piceance Basin, Uinta-Piceance Province, Colorado and Utah, 2016," U.S. Department of the Interior, *Fact Sheet* No. 2016-3030, June 2016, http://pubs.usgs.gov/fs/2016/3030/fs20163030.pdf (accessed November 10, 2016).
[8]U.S. Geological Survey, "Assessment of Undiscovered Oil and Gas Resources of the Uinta-Piceance Province of Colorado and Utah, 2002," U.S. Department of the Interior, *Fact Sheet* No. 157-02, p. 2, February 2003, https://pubs.usgs.gov/fs/fs-157-02/FS-157-02.pdf (accessed November 10, 2016).
[9]U.S. Forest Service, "Final Record of Decision, Oil and Gas Leasing on Lands Administered by the White River National Forest," December 3, 2015, pp. 4 and 13, http://www.fs.usda.gov/Internet/FSE_DOCUMENTS/fseprd485176.pdf (accessed October 6, 2016).

requirements for new leases.[10]

In the Forest Service's final oil and gas plan in December, Forest Manager Scott Fitzwilliams wrote, "If new information or technological advances show the need to revisit this decision, I have the authority to do so. But at this time, I have decided to take a more conservation-minded approach to future gas leasing on the White River National Forest."[11] Since then, the USGS has announced its discovery of 40 times more technically recoverable natural gas than previously estimated. Taking that second look is exactly what some Members in Congress are asking the BLM to do for existing leases there.[12] The same should be done elsewhere. There are 69 trillion cubic feet of proved natural gas resources on federal (onshore) lands, and there are 5.3 billion barrels of proved oil resources on federal (onshore) lands.[13] Yet the Obama Administration has directly (as in the case of the White River National Forest) and indirectly (via lease auction, moratoriums, and permit delays) restricted access to these resources.[14]

Because land owned by the federal government is abundant and diverse, grazers, farmers, tourists, hunters, and other individuals and groups have an interest in how the federal agencies manage the White River National Forest and other federal lands like it. For that reason, Congress passed multiple land-use laws to guide federal agencies. The Multiple Use and Sustained Yield Act, the National Forest Management Act for the Forest Service, and the Federal Land Policy and Management Act (FLPMA) for BLM are some of the principle guides for agencies on multiple land use. In practice, however, political agendas and bureaucratic priorities often cast interested parties to the side, limiting (in some instances prohibiting) certain economic activity, such as energy development.

For example, the parameters established in the FLPMA of multi-use, sustained yield, and environmental protection guide the BLM's approach to land management.[15] Though these parameters may sound accommodating to all interested parties, each entails value choices which

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[10]Land Management Bureau, "Notice of Availability of the Final Environmental Impact Statement for Previously Issued Oil and Gas Leases in the White River National Forest, Colorado," *Federal Register*, Vol. 81, No. 151 (August 5, 2016), pp. 51936–51937, https://federalregister.gov/a/2016-18542 (accessed October 11, 2016).
[11]U.S. Forest Service, "Final Record of Decision, Oil and Gas Leasing," p. 7.
[12]Representative Rob Bishop, letter to Neil Kornze, Director, Bureau of Land Management, June 30, 2016, http://democrats-naturalresources.house.gov/imo/media/doc/Bishop%20June%2030%20Letter%20to%20BLM%20on%20Mancos%20Shale%20Assessment.pdf (accessed October 6, 2016). See also David Ludlam, Kathleen Sgamma, and Dan Haley, letter to Greg Larson, June 17, 2016, https://cdn.westernenergyalliance.org/sites/default/files/Comments%20to%20BLM%20Regarding%20USGS%20and%20Emergence%20of%20the%20Mancos%20Shale.pdf (accessed October 6, 2016).
[13]"Proved reserves" is a very conservative measure referring to resources accessible with today's technology, laws, and economic situation. Marc Humphries, "U.S. Crude Oil and Natural Gas Production in Federal and Nonfederal Areas," Congressional Research Service *Report for Congress*, pp. 2 and 4, https://www.fas.org/sgp/crs/misc/R42432.pdf (accessed October 6, 2016).
[14]"U.S. Oil Production Up, But on Whose Lands?" Institute for Energy Research, September 24, 2012, http://instituteforenergyresearch.org/analysis/u-s-oil-production-up-but-on-whose-lands-2/ (accessed October 6, 2016).
[15]Bureau of Land Management, "The Federal Land Policy and Management Act (FLPMA) of 1976: How the State Was Set for BLM's 'Organic Act,'" http://www.blm.gov/flpma/organic.htm (accessed November 10, 2016).

communities might prioritize and define differently than the federal government. The federal government is not in a good position, nor should it be the role of the federal government, to discern how these parameters ought to be applied on the ground and in a variety of communities.

Colorado is just one of many examples of the federal government's ill-fitting management. The Forest Service's White River resource management plan is a static approach to an otherwise dynamic environment and industry, as the USGS discovery months later showed. It offers a misguided notion of environmental stewardship, presuming that no management is good management and "keeping it in the ground" is the best way to protect the environment. Rather than accommodating multiple uses, the primary vision guiding the decision—what Fitzwilliams and the Forest Service called "environmentally preferable"—was one allowing "no new leasing."[16] Management alternatives seem to have been measured according to how closely they aligned with this standard of "no use" rather than a standard of multi-land use.

Hardly an isolated problem, this particular debate over multi -land use in this area of Colorado has been brewing at least since 2010 when the Forest Service first began publically reviewing the White Forest management plan.[17] A particularly controversial area is the Thompson Divide, where other interest groups have protested against further oil and gas leasing, though wells have been operating there since 1947.[18] Executive director of the Thompson Divide Coalition, Zane Kessler, says that "this is about local control and a community's desire to determine its own future" rather than outright opposition to the oil and gas industry.[19] But federal management of the land neither meaningfully fosters local and state control nor encourages more creative solutions at the local level between apparently competing uses for the land. Instead, Senator Michael Bennet (D–CO) has taken up the issue by introducing the Thompson Divide Withdrawal and Protection Act to prohibit oil and gas resource development.

Similar debates have surfaced in other issues too, such as the Department of the Interior's regulatory scheme for greater-sage-grouse habitat. In this instance, the Department of the Interior did not seek meaningful or timely participation from local commissioners in nearby Garfield County, despite the extensive local efforts to restore habitat and grouse populations while also

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[16]Forest Service, "Final Record of Decision, Oil and Gas Leasing," p. 12.
[17]Ibid.
[18]Bureau of Land Management, "Thompson Divide Drilling History," January 16, 2013, http://www.blm.gov/style/medialib/blm/co/field_offices/crvfo/news_release.Par.76920.File.dat/Thompson%20Divide%20Drilling%20History%201-16-13.pdf (accessed October 6, 2016). See also, Thompson Divide Coalition, "The Issue," http://www.savethompsondivide.org/ (accessed November 10, 2016).
[19]Paul Tolmé, "The Fight Over the Thompson Divide," *5280 Magazine*, March 2016, http://www.5280.com/news/environment/magazine/2016/02/fight-over-thompson-divide?page=full (accessed November 10, 2016).

accommodating multi-use purposes.[20] It appears that national environmental groups that agreed with the Interior's approach did receive greater access to federal decision makers, however.

These examples illustrate the larger systemic problem of federal land management and its multi-use land strategy. Local land-use issues, and undoubtedly highly contentious ones, should not need to wait for the U.S. Congress or a federal agency to weigh multiple land-use choices. Federalizing land management instantly politicizes decisions on a national level. Colorado has nine Representatives and Senators, and yet 526 other Congressmen and the Interior have a say in how federal land is used there. Unsurprisingly, larger political battles muddy local issues and concerns. Too often, Congress forces decisions through "must pass" legislation, such as omnibus spending bills, rather than considering land issues on their own merits.[21] In other instances, a President can unilaterally designate as land a national monument without say from Members or states, adding additional land-use restrictions in the process.[22]

This Washington-centric approach to management stifles creative, collaborative solutions to competing interests that could be resolved at local, state, or regional levels without the added baggage of national political battles and federal regulatory processes. While states and local communities may not always make perfect decisions, the best environmental policies are site-specific and situation-specific and emanate from liberty.[23]

State Governance Yields Better Economic and Environmental Results

Americans are fortunate that much of the shale oil and shale gas deposits in the U.S. are beneath state and privately owned lands. However, an important reason for its rapid increase in production has been an efficient permitting process. The time frame by which states process an application for a permit to drill is measured in days or weeks. The state average is 30 days and several states process applications in a fraction of that time.[24] Ohio requires a permit to be processed within 21 days, and an expedited permit within seven days.[25] Other states have

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[20]Ryan Summerlin, "'We Weren't Listened to' on Sage-Grouse Policy, Garfield County Says," *Post Independent-Citizen Telegram*, July 11, 2016, http://www.postindependent.com/news/local/we-werent-listened-to-on-grouse-county-says/ (accessed November 10, 2016).
[21]Robert Gordon and Nicolas Loris, "Congress's Sneaky Tactic to Grab More Land for the Government," The Daily Signal, December 2, 2014, http://dailysignal.com/2014/12/02/congresss-sneaky-tactic-grab-u-s-land-government/.
[22]Nicolas Loris, "The Antiquated Act: Time to Repeal the Antiquities Act," Heritage Foundation *Backgrounder* No. 2998, March 25, 2015, http://www.heritage.org/research/reports/2015/03/the-antiquated-act-time-to-repeal-the-antiquities-act.
[23]Jack Spencer, ed., *Environmental Conservation: Eight Principles of the American Conservation Ethic*, The Heritage Foundation, July 27, 2012, http://www.heritage.org/research/projects/environmental-conservation#EightPrinciples.
[24]Institute for Energy Research, "Time Required for Processing a Permit to Drill—Federal vs. States," http://www.instituteforenergyresearch.org/wp-content/uploads/2012/09/Time-required-to-drill-1-sm.png (accessed November 10, 2016).
[25]Ohio Department of Natural Resources Oil and Gas Division, "Permitting," 2015, http://oilandgas.ohiodnr.gov/industry/permitting-bonding-hydrology (accessed November 10, 2016).

similarly short time frames: Texas's average is four days (expedited permits are two days),[26]and even in California, a permit must be processed within 10 days; if it is not, it is automatically approved.[27]

Efficiency pays off: Rather than spending undue time and money filling out and filing permit applications, companies are getting more—and more affordable—energy to the market. In October 2008, the United States produced 4.7 million barrels per day; production skyrocketed to more than 8.7 million barrels per day in October 2014.[28] According to the latest data from the U.S. Energy Information Administration, marketed natural gas production is at an all-time high in the U.S.[29]

The dramatic increase in oil and natural gas production drives down prices, putting money back into Americans' bank accounts, and enabling American businesses to be more competitive. Lower gas prices have provided a huge windfall and are putting money back into the wallets of American households. Cheaper gasoline saved families approximately $700 in 2015.[30] The huge boost in disposable income gives them the opportunity to spend money going out to eat, on electronics, or at department stores. While some economists have warned of the dangers of low oil prices to financial markets, a new analysis from Merrill Lynch estimates that consistently low oil prices "will push back $3 trillion a year from oil producers to global consumers, setting the stage for one of the largest transfers of wealth in human history."[31]

State control and local governance will also result in more accountable, effective management. While the federal government can simply pass on the costs of poor or no management to federal taxpayers, states have powerful incentives for better management of resources on federal lands. State governments and budgets can be more accountable to the people who will directly benefit

[26]Railroad Commission of Texas, "Railroad Commission's IT Modernization Program Streamlines Processing Times for Drilling Permits," http://www.rrc.state.tx.us/all-news/121114a/ (accessed November 10, 2016).
[27]California Department of Conservation, "Oil, Gas and Geothermal—Frequently Asked Questions," http://www.conservation.ca.gov/dog/faqs/Pages/Index.aspx#what_permits (accessed November 10, 2016).
[28]Production was even higher before prices declined. See U.S. Energy Information Administration, "Petroleum & Other Liquids: U.S. Field Production of Crude Oil," data set, October 31, 2016, http://www.eia.gov/dnav/pet/hist/LeafHandler.ashx?n=pet&s=mcrfpus2&f=m (accessed November 10, 2016).
[29]Marketed production is "Gross withdrawals less gas used for repressuring, quantities vented and flared, and nonhydrocarbon gases removed in treating or processing operations. Includes all quantities of gas used in field and processing plant operations." U.S. Energy Information Administration, "Natural Gas: U.S. Natural Gas Marketed Production," data set, October 31, 2016, http://www.eia.gov/dnav/ng/hist/n9050us2m.htm (accessed November 10, 2016).
[30]JP Morgan Chase and Co Institute, "How Falling Gas Prices Fuel the Consumer: Evidence from 25 Million People," October 2015, https://www.jpmorganchase.com/corporate/institute/document/jpmc-institute-gas-report.pdf (accessed November 10, 2016).
[31]Joe Weisenthal, "BofA: The Oil Crash Is Kicking Off One of the Largest Wealth Transfers in Human History," *Bloomberg*, January 31, 2016, http://www.bloomberg.com/news/articles/2016-02-01/bofa-the-oil-crash-is-kicking-off-one-of-the-largest-wealth-transfers-in-human-history (accessed November 10, 2016).

from wise management decisions or be marginalized by poor ones, making it more likely that resources will be both developed—and developed in a way that protects the environment.[32]

States also have unique expertise in the lands within their bounds, unlike federal policies, which do not always make sense across the diversity of the federal estate. The geologic makeup of lands across the U.S. presents different economic and environmental challenges. State environmental regulators who already have the local expertise are more capable of providing efficient and timely guidance. Allowing state programs to function in place of federal ones employs this knowledge and relieves federal budgets of the burden to manage permitting requests and regulatory responsibilities, freeing up federal resources for more pressing issues, such as wildfire management.

On the other hand, federal management has devolved into unclear, redundant, and expensive regulations that often thwart good stewardship and enable discouragingly excessive litigation.[33] Furthermore, the federal government has proved to be inflexible in managing land, unresponsive to local concerns, and not competitively managed. While by no means perfect, state management of public lands has proved much more successful. Furthermore, the benefits extend well beyond mineral development. According to a recent Property and Environment Research Council report, "On average, states generate more revenue per dollar spent than the federal government on a variety of land management activities, including timber, grazing, minerals, and recreation."[34]

The BLM and Forest Service lands lost $4.38 per acre from 2009–2013, while trust lands in four western states earned $34.60 per acre.[35] In terms simply of recreation, states again do a better job of making a return on their investment. Idaho and Montana averaged $6.86 per dollar spent on recreation on state trust lands; in contrast, the BLM earned $0.20 and the FS $0.28 per dollar spent, resulting in a net loss.[36] Incentives to invest in and steward the environment are stronger when people have direct ownership and responsibility.

Reaching America's True Energy Potential

In March 2012 President Barack Obama stated, "We can't just drill our way to lower gas prices."[37] He said the same thing earlier that year on the campaign trail.[38] He said it a lot.[39]

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[32]Jack Spencer et al., *Environmental Conservation: Eight Principles of the American Conservation Ethic*, The Heritage Foundation, July 27, 2012, http://opportunity.heritage.org/conserve-the-environment-through-responsible-stewardship/.
[33]Allan Fitzsimmons, *Reforming Federal Land Management: Cutting the Gordian Knot* (Lanham, MD: Rowman & Littlefield Publishers, 2012), pp. 85–111.
[34]Holly Fretwell and Shawn Regan, "Divided Lands: State vs. Federal Management in the West," Property and Environment Research Center, PERC Public Lands Report, March 2015, Figure 1, http://www.perc.org/sites/default/files/pdfs/150303_PERC_DividedLands.pdf (accessed November 10, 2016).
[35]Ibid.
[36]Ibid., Table 6.
[37]News release, "Weekly Address: Investing in a Clean Energy Future," The White House, March 10, 2012, https://www.whitehouse.gov/the-press-office/2012/03/10/weekly-address-investing-clean-energy-future (accessed June 17, 2016).

Perhaps the line polled well, but it was not true. The U.S. *did* drill its way to lower gas prices over the past several years (for both natural gas and gasoline) and broke the back of the Organization of Petroleum Exporting Countries (OPEC) in the process.[40]

The doubling of U.S. oil production between 2008 and 2015 is an amazing story of American ingenuity, persistence and, of course, drilling. The story is made more amazing by the fact that federal energy policy actively *hindered* this energy renaissance as it was taking place. In the first few months of the Obama Administration, the Department of the Interior cancelled oil and gas lease sales.[41] In 2011, the Obama Department of the Interior blocked access to most of America's offshore oil and gas reserves, placing a de facto moratorium on drilling.[42] The Environmental Protection Agency's (EPA's) hostility to the oil and gas industry was exemplified by regional administrator and Obama appointee Al Armendariz, who was captured on tape explaining that his policy was to "crucify" select oil and gas firms in order to terrify the others.[43]

In spite of the Administration's policies, the energy sector thrived because of production on private and state-owned lands. As the U.S. drilled its way to low petroleum prices, oil production from the federal estate was stagnant or declining.[44] So, it is reasonable to ask: What sort of energy powerhouse could the U.S. be with an energy policy that unleashes America's total energy potential?

In its *Annual Energy Outlook*, the federal government's Energy Information Administration (EIA) makes projections of energy production, consumption, and prices. The reference case assumes midpoint projections for energy resources and assumes that regulations follow their

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[38]"Obama: Can't Drill Our Way to Lower Gas Prices," video, YouTube, https://www.youtube.com/watch?v=bEyPkY0Kf-Y (accessed June 17, 2016).
[39]See, for instance, Andrew Restuccia, "Obama: Nation Can't Drill its Way out of Soaring Gas Prices," *The Hill*, May 6, 2011, http://thehill.com/policy/energy-environment/159705-obama-more-drilling-is-not-the-solution (accessed June 17, 2016).
[40]Chriss Street, "OPEC Accepts Defeat in Anti-Fracking War with U.S.," *American Thinker*, May 30 2015, http://www.americanthinker.com/blog/2015/05/opec_accepts_defeat_in_antifracking_war_with_us.html (accessed June 17, 2016), and Alahdal A. Hussein, "Why OPEC Is Losing Control Over Oil Prices & How Shale Oil Controls It Indirectly," *Oil Voice*, February 29, 2016, http://www.oilvoice.com/n/Why-OPEC-is-Losing-Control-Over-Oil-Prices-How-Shale-Oil-Controls-It-Indirectly/04daf34bd620.aspx?ovs=side (accessed June 17, 2016).
[41]Amy Joi O'Donoghue, "Salazar Halts Sale of Utah Oil, Gas Leases," *Deseret News*, February 5, 2009, http://www.deseretnews.com/article/705282698/Salazar-halts-sale-of-Utah-oil-gas-leases.html?pg=all (accessed June 17, 2016).
[42]Institute for Energy Research, "Obama's Offshore Plan: One Giant Leap Backwards," May 8, 2012, http://instituteforenergyresearch.org/analysis/obamas-offshore-plan-one-giant-leap-backwards/ (accessed June 17, 2016).
[43]Christopher Helman, "EPA Official Not Only Touted 'Crucifying' Oil Companies, He Tried It," *Forbes*, April 26, 2012, http://www.forbes.com/sites/christopherhelman/2012/04/26/epa-official-not-only-touted-crucifying-oil-companies-he-tried-it/#e26e2097ac32 (accessed June 17, 2016).
[44]Institute for Energy Research, "Energy Production on Federal Lands Lags Behind Private and State Lands," July 21, 2015, http://instituteforenergyresearch.org/analysis/energy-production-on-federal-lands-lags-behind-private-and-state-lands/ (accessed June 17, 2016), and U.S. Energy Information Administration, "U.S. Field Production of Crude Oil," May 31, 2016, https://www.eia.gov/dnav/pet/hist/LeafHandler.ashx?n=PET&s=MCRFPUS2&f=A (accessed June 17, 2016).

legislative timelines. As part of its sensitivity analysis, the EIA also produces two side cases where energy resources are assumed to be (a) 50 percent higher and (b) 50 percent lower than the reference case. Though these side cases are not intended to model policy changes, the High Resource Case offers a glimpse of what might be.

It should be noted that a 50 percent increase in resource availability is not a pie-in-the-sky fantasy. U.S. petroleum production in 2015 was about 50 percent higher than the projection the EIA made for 2015 in 2008.[45] Natural gas production in 2015 was about 40 percent *higher* than the EIA's 2008 projection. The comparative pessimism on the part of the EIA was largely due to not fully appreciating the impacts of smart drilling technology and hydraulic fracturing (fracking) at that time.

Without comprehensive seismic mapping and exploration, an accurate estimate of the recoverable natural resources that are currently locked up on federal lands and the continental shelf is unlikely. However, the combination of a rational regulatory environment such as devolving responsibility to the states combined with open access would likely put a 50 percent increase within reach.

Using a clone of the EIA's National Energy Modeling system, Heritage Foundation analysts looked at the impact of the High Resource Case on income and employment, as well as the impact on energy markets. The results are intriguing.

Heritage analysis shows that lifting needless restrictions on energy production that produce little, if any, environmental benefit will increase employment by an average of 700,000 jobs through 2035. Along with the jobs comes $2 trillion in additional economic growth that translates to an additional $40,000 of income per family of four by 2035. These economic gains arise for a variety of reasons. First, there is an increase in job creation directly associated with producing shale oil and gas not otherwise under current policy. There are often tremendous job opportunities for engineers, geologists, mathematicians, truck drivers, welders, and others as well.

In addition, the resulting energy—used all across the economy—becomes less expensive. Cheaper energy lowers the cost of doing business, making American companies more competitive and enabling them to invest and expand. There are also increased needs for associated manufacturing as well as demand for repair shops, menders, hardware stores, restaurants, hotels, and laundromats among many others. Natural gas and butane, ethane, and propane removed from natural gas provide feedstock for fertilizers, chemicals, and

[45]U.S. Energy Information Administration, *Annual Energy Outlook 2008*, June 2008, https://www.eia.gov/oiaf/archive/aeo08/index.html (accessed June 20, 2016), and U.S. Energy Information Administration, *Annual Energy Outlook 2016*, July 7, 2016, http://www.eia.gov/forecasts/aeo/ (accessed June 20, 2016).

pharmaceuticals. The shale gas boom resulted in more than $100 billion in new chemical manufacturing investment.[46]

Conclusion

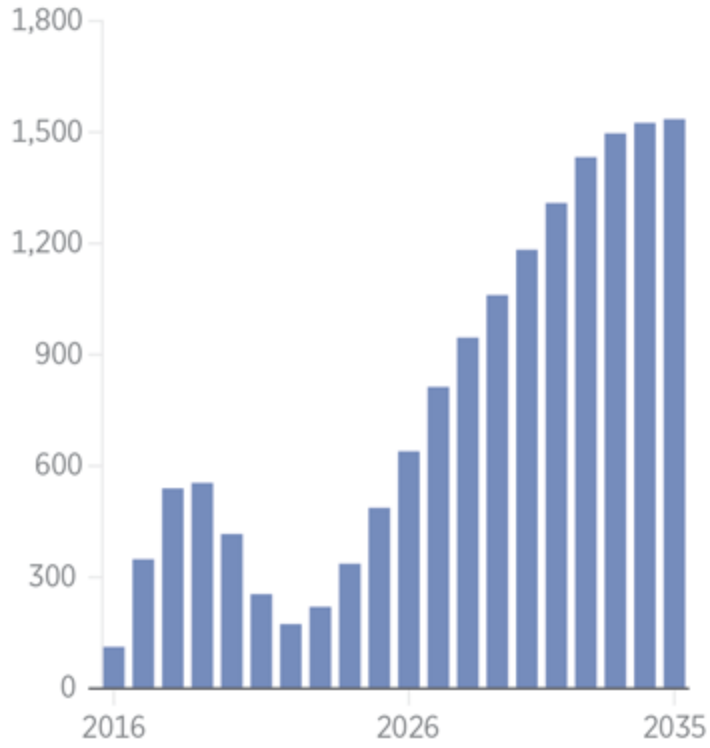
States share the cost of the maintenance of federal lands, whether by the liability of no management, the lost opportunity of poor management, or the infrastructure needed to support development of resources. States have a proven record of managing resources, and already have the regulatory structures in place to do so on federal lands within their boundaries as well. Not only would new management multiply benefits for all Americans, it would also encourage better care of the environment and natural resources by putting them in the hands of people who have an immediate stake in wise management.

[46]News release, "U.S. Chemical Investment Linked to Shale Gas Reaches $100 Billion," American Chemistry Council, February 20, 2014, https://www.americanchemistry.com/Media/PressReleasesTranscripts/ACC-news-releases/US-Chemical-Investment-Linked-to-Shale-Gas-Reaches-100-Billion.html (accessed November 10, 2016).

CHART 2

Unleashing America's Oil and Gas: Overall Employment

EMPLOYMENT DIFFERENTIAL, BY YEAR, IN THOUSANDS



SOURCE: Heritage Foundation calculations using the Heritage Energy Model. See methodology for details.

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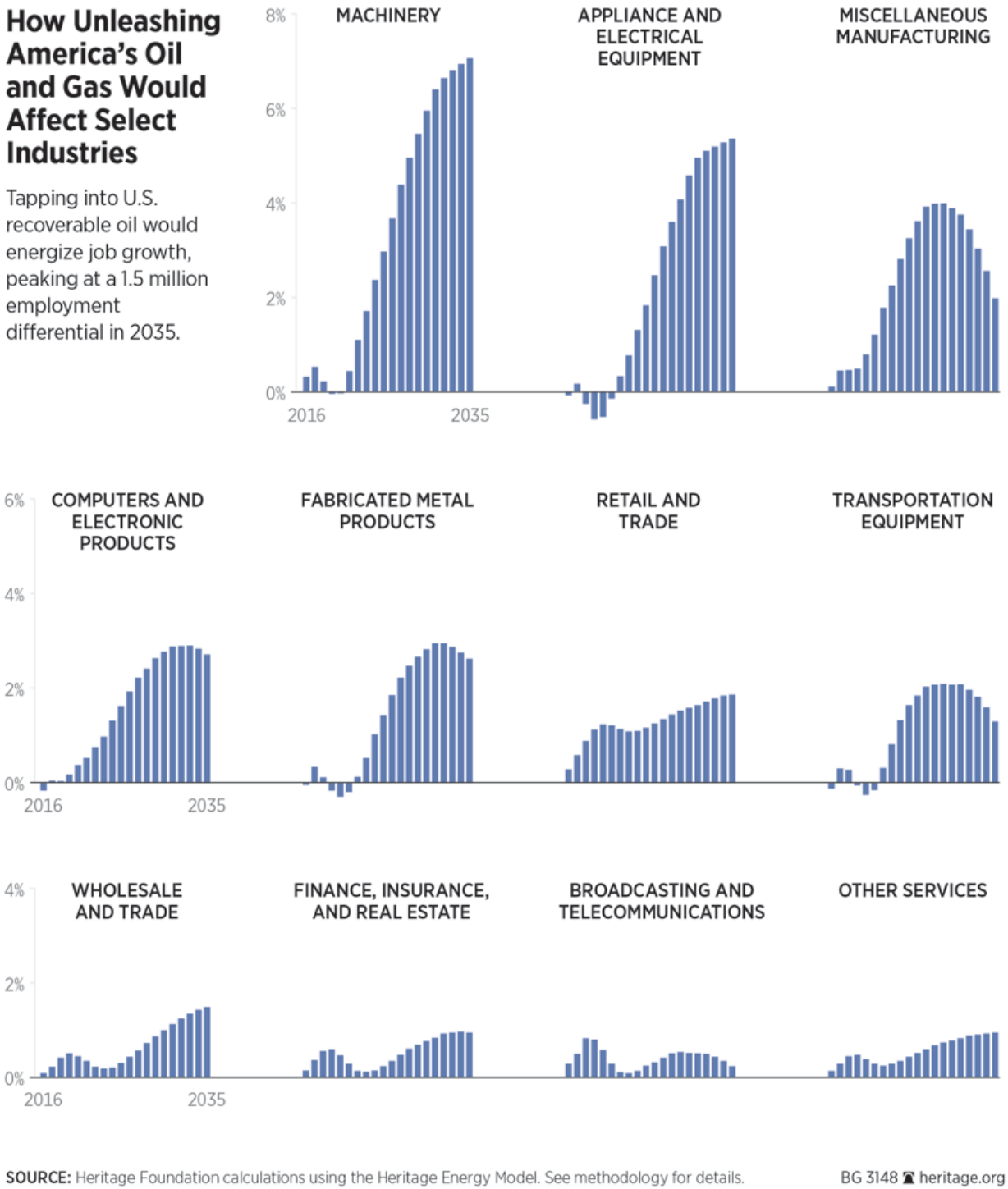
CHART 3

How Unleashing America's Oil and Gas Would Affect Select Industries

Tapping into U.S. recoverable oil would energize job growth, peaking at a 1.5 million employment differential in 2035.

PERCENTAGE CHANGE IN EMPLOYMENT DIFFERENTIAL OF SELECT INDUSTRIES, BY YEAR



SOURCE: Heritage Foundation calculations using the Heritage Energy Model. See methodology for details.

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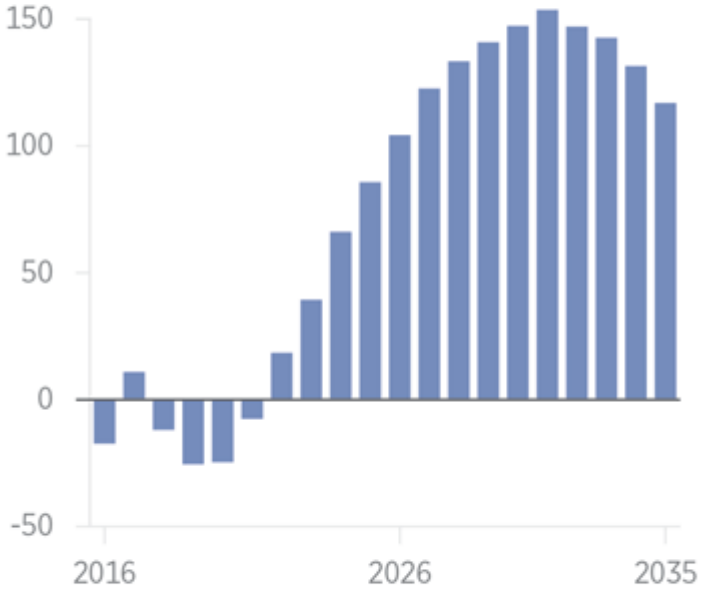
CHART 4

Unleashing America's Oil and Gas: Manufacturing Employment

MANUFACTURING EMPLOYMENT DIFFERENTIAL, BY YEAR, IN THOUSANDS



SOURCE: Heritage Foundation calculations using the Heritage Energy Model. See methodology for details.

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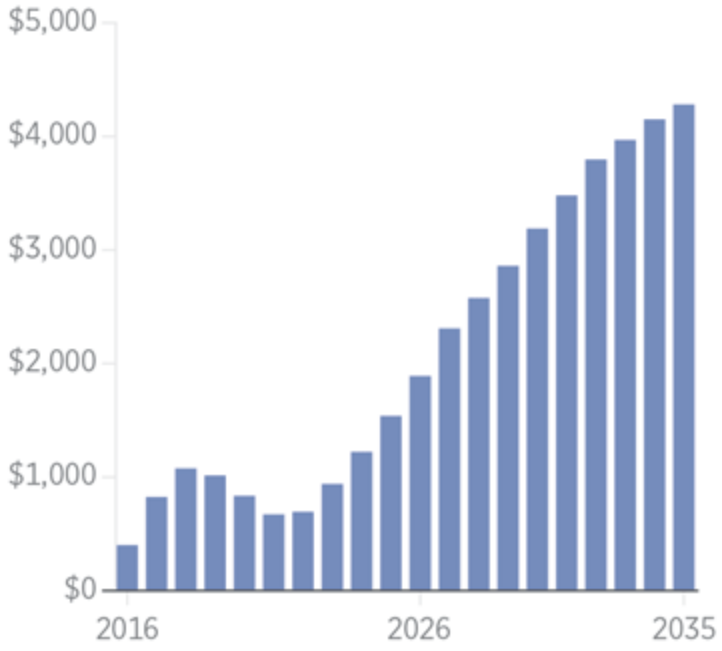
CHART 5

Unleashing America's Oil and Gas: Family Income

PERSONAL INCOME DIFFERENTIAL FOR FAMILY OF FOUR, BY YEAR, IN INFLATION-ADJUSTED DOLLARS



SOURCE: Heritage Foundation calculations using the Heritage Energy Model. See methodology for details.

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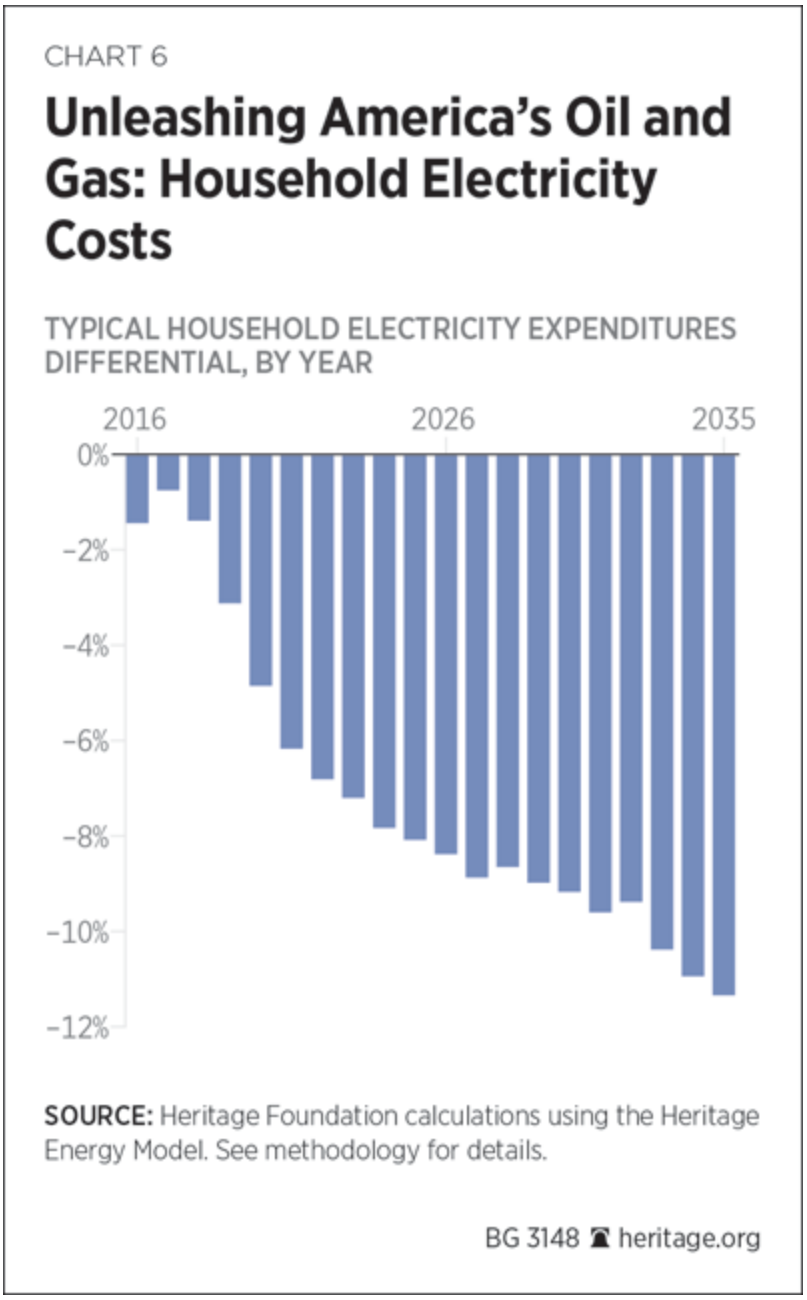

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